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COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-eighth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Cape Verde

1. The Committee considered the initial report of Cape Verde (CRC/C/11/Add.23) at its 445th to 446th meetings (see CRC/C/SR.445-446), held on 10th October 2001, and adopted, at the 749th meeting (CRC/C/SR.749), held on 12 October 2001, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report and the promptly submitted written replies to its list of issues (CRC/C/Q/CAP/1). The Committee notes the very constructive dialogue it held with the State party's high-ranking delegation, directly implicated in the Convention's implementation, and the delegation's positive reaction to the Committee's various suggestions.

B. Positive factors

3. The Committee welcomes the many improvements in respect for children's rights and the situation of children within the State party over the last two decades. The Committee notes the marked improvement of health indicators including, in particular, the sharp drop in the mortality rate of children under five and the major increase in school enrolment.

4. The Committee notes the very positive aims of education within the State party's national education curriculum and the establishment of a teacher training institute.

5. The Committee notes the State party's adoption of the Constitution in 1992 which makes reference to children's rights, the adoption of a Minors Code, amendments to the Civil Code and Family Code, the adoption of a national declaration on social policy with regard to children and adolescents and the award of a UNICEF children's rights prize to the Institute for Minors in Cape Verde.

C. Factors and difficulties impeding the implementation of the Convention

6. The Committee notes the difficult economic conditions within the State party and the situation of poverty confronted by a large proportion of the population.

7. The Committee notes the State party's geographic spread over several islands which, combined with other difficulties, poses problems in the provision of services. The Committee notes, in addition, the absence of natural resources, the limited availability of clean drinking water, regular periods of drought and a process of desertification.

D. Principal subjects of concern, suggestions and recommendations

1. General measures of implementation

Legislation

8. Noting the recent efforts to amend the Minors Code and the Family Code, the Committee remains concerned that further strengthening of legislation is required. The Committee is also concerned that the Convention is not applied directly by the courts and administrative structures in the State party and that, given the incompatibility of some elements of domestic legislation, this may lead to practices that are not in accordance with the Convention.

9. **The Committee recommends that the State party:**

(a) Amend outdated legislation and adopt new legislation, including the new Penal Code, in accordance with the provisions of the Convention;

(b) Encourage domestic judicial and administrative mechanisms to apply the Convention directly in domestic proceedings.

Implementation and coordination

10. The Committee is concerned that implementation of the Convention is hindered by insufficient coordination between ministries and other mechanisms responsible for implementation, including between public and private institutions.

11. **The Committee:**

(a) Recommends that the State party strengthen implementation of the Convention and establish a mechanism with a suitable mandate and adequate resources to coordinate policy and programmes in this regard;

(b) Noting that the Instituto Cabo Verdiano dos Menores (ICM) functions effectively on two islands, the Committee recommends that the State party consider extending its work to the rest of the country, providing it with additional financial and human resources and reinforcing its status;

(c) Recommends that the State party make greater efforts to coordinate the work of public and private institutions.

National Plan of Action

12. Noting the State party's National Plan of Action for childhood and adolescence, the Committee remains concerned that the Plan has not been implemented.

13. **The Committee strongly recommends that the State party update and implement its Plan of Action for childhood and adolescence at national and local levels and in accordance with the Convention's principles and provisions.**

Data

14. The Committee is concerned at the lack of the systematic and comprehensive collection of disaggregated data for all areas covered by the Convention and in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children.

15. **The Committee recommends that the State party:**

(a) Develop a system of data collection and indicators consistent with the Convention and disaggregated by gender, age, and urban and rural area. This system should cover all children up to the age of 18 years, with specific emphasis on those who are particularly vulnerable, including child victims of abuse, neglect, or ill-treatment; children with disabilities; street children; child victims of sexual exploitation; children in conflict with the law; and children living in isolated areas;

(b) Use these indicators and data for the formulation, implementation and evaluation of policies and programmes for strengthening respect of the Convention.

Monitoring

16. While noting the recent establishment of the National Commission on Human Rights and its sub-commissions, the Committee is concerned at the absence of an effective and independent mechanism for monitoring the Convention's implementation.

17. **The Committee recommends that the State party:**

(a) Consider the establishment of an independent national human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (General Assembly resolution 48/134) to

monitor and evaluate progress in the implementation of the Convention at the national and local levels. This institution should be accessible to children and empowered to receive and investigate complaints of violations of child rights in a child-sensitive manner and to address them effectively;

(b) Consider the development of a focal point on children's rights within the National Commission on Human Rights.

Allocation of adequate resources

18. While noting the State party's provision of significant proportions of its budgetary resources to sectors of benefit to children, the Committee remains concerned that the lack of adequate data makes it difficult to assesses accurately the investment made directly for the Convention's implementation. The Committee is concerned, in addition, that additional resources are urgently required for securing respect for the economic, social and cultural rights of children.

19. **The Committee recommends that the State party:**

(a) Systematically assess the impact of budgetary allocations on the implementation of child rights and disseminate information in this regard;

(b) Ensure the allocation and distribution, to the maximum extent possible, of available resources at the national and local levels and, where needed, within the framework of international cooperation;

(c) Consider its obligations under the Convention in all aspects of its negotiations with international financial institutions and other donors, to ensure that the economic, social and cultural rights of children are respected.

Cooperation with civil society

20. The Committee is concerned that civil society, including NGOs, was not sufficiently involved in the process of drafting the State party's report and has been insufficiently implicated in implementation of the Convention.

21. **The Committee recommends that the State party make greater efforts to:**

(a) Reinforce cooperation with NGOs working in all domains of relevance to the Convention's implementation;

(b) Support the work of NGOs in the area of children's rights.

Dissemination of the Convention

22. While noting the State party's efforts to promote the Convention, including in schools, the Committee remains concerned that there is insufficient awareness of the Convention among children, professionals working with children, parents and the public in general.

23. **The Committee recommends that the State party:**

(a) Strengthen its efforts to disseminate the principles and provisions of the Convention, as a measure to sensitize society on children's rights;

(b) Involve local communities in its programmes in order to combat customs and traditions that impede the implementation of the Convention and adopt creative measures of communication for involving persons who are illiterate;

(c) Undertake systematic education and training on the provisions of the Convention for all professional groups working for and with children, in particular parliamentarians, judges, lawyers, law enforcement officials, civil servants, municipal and local workers, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers;

(d) Ensure the provision of human rights education, including on the rights of the child, in all schools;

(e) Seek technical assistance from, among others, OHCHR and UNICEF.

2. Definition of the child

24. The Committee is concerned that the number of years of compulsory education under existing provisions is insufficient.

25. **The Committee recommends that the State party:**

(a) Increase the number of years of compulsory education, including by extending the minimum age for leaving education;

(b) Take steps to close gaps between the minimum age for work and the end of compulsory education, so as to ensure that children do not end their education prematurely to begin work;

(c) Seek technical assistance from UNESCO and ILO, as appropriate, in this regard.

3. General principles

26. The Committee is concerned that the principles of non-discrimination (article 2 of the Convention), best interests of the child (art. 3), survival and development (art. 6) and respect for the views of the child (art. 12) are not fully reflected in the State party's legislation and administrative and judicial decisions, as well as in policies and programmes relevant to children at both national and local levels.

27. **The Committee recommends that the State party appropriately integrate general principles of the Convention, in particular the provisions of articles 2, 3, 6 and 12, in all relevant legislation concerning children and apply them in all political, judicial and administrative decisions, as well as in projects, programmes and services which have an impact on all children. These principles should guide planning and policy-making at every level, as well as actions taken by social and health welfare institutions, courts of law and administrative authorities.**

Discrimination

28. The Committee is concerned that the Constitution does not include provisions prohibiting discrimination against children with disabilities and that discrimination against women, which may have an impact on their children, remains commonplace in practice.

29. **The Committee recommends that the State party:**

(a) Ensure that the Constitution and other relevant legislation prohibit discrimination on all grounds covered by the Convention's article 2 including, in particular, discrimination on the basis of disability;

(b) Strengthen its efforts to end discrimination against women through, inter alia, the use of information campaigns and programmes promoting the advancement of women.

30. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, and taking account of the Committee's general comment No. 1 on article 29 (1) of the Convention on the aims of education.

Child participation

31. While noting the State party's efforts in this regard, including both the establishment of a children's parliament and the State party's efforts in 1998 to raise awareness of children's right to participate, the Committee remains concerned that this right is not adequately respected in the context of, inter alia, the family, schools and policy-making.

32. **In light of article 12, the Committee recommends that the State party strengthen its efforts to ensure respect for children's right to participate through, inter alia:**

(a) The use of promotion campaigns targeting parents, teachers and children;

(b) Continuing support to the children's parliament and ensuring that conclusions and recommendations made by this parliament are taken into consideration in the State party's decision-making process.

4. Civil rights and freedoms

Birth registration and the right to identity

33. While welcoming the significant progress made by the State party in increasing rates of birth registration, the Committee remains concerned that a large proportion of children are still not registered at birth.

34. **The Committee recommends that the State party:**

(a) Continue and strengthen its ongoing efforts to raise birth registration levels including through facilitating the birth registration process, raising awareness among parents, increasing resources available to registering authorities and establishing birth registration facilities in hospitals with maternity clinics;

(b) Give particular attention to isolated communities, including those on less populated islands.

Corporal punishment

35. The Committee is concerned that corporal punishment is widely practised in the home and in schools, and by the police forces against vulnerable groups such as street children.

36. **The Committee recommends that the State party:**

(a) Take steps to end the practice of corporal punishment in schools and in the home;

(b) Conduct, inter alia, awareness-raising and education campaigns to change public attitudes;

(c) Provide training and information on alternative forms of non-violent discipline and ensure that these are administered in a manner consistent with the child's human dignity and in conformity with the Convention, especially articles 19 and 28 (2).

5. Family environment and alternative care

Family structure

37. The Committee is concerned that the family structure, and particularly the care and protection it provides to children in the State party, is weakened by a combination of a lack of resources, poor housing conditions, a lack of free day care for single-parent-headed families, an insufficient social security and welfare system and the union libre fixe practice of parental relationships.

38. **The Committee recommends that the State party:**

(a) Give careful consideration to ways of providing improved protection and care of children and their rights in the context of the family, and that subsequent action be taken urgently towards strengthening children's family life;

(b) Consider the provision of assistance to families through, inter alia, a national plan for families and additional assistance to single-parent families, including with regard to securing child maintenance payments from the parent who is not caring for the child;

(c) Study the impact of the union libre fixe relationship structure on children and develop specific programmes to address problems identified;

(d) Seek assistance from UNICEF in this regard.

Abuse, mistreatment and domestic violence

39. The Committee is concerned at incidents of abuse, including sexual abuse and incest, and the mistreatment of children in the family. The Committee is concerned, in addition, at the incidence of domestic violence, which has a negative impact on children.

40. **The Committee recommends that the State party make every effort:**

(a) To monitor and record incidents of abuse, including sexual abuse and incest, mistreatment of children and domestic violence, including violence against women in the family, making particular efforts to improve data collection on these concerns;

(b) Effectively investigate cases of domestic violence and violence in schools, through a child-sensitive judicial procedure, and apply sanctions to perpetrators with due regard given to guaranteeing the right to privacy of the child;

(c) Proceed with a study of violence against women and address this concern through, inter alia, the promotion of women's human rights, the strengthened implementation of relevant provisions in the Constitution and other legal instruments, and by ensuring that women have access to suitable complaint mechanisms;

(d) Ensure that cultural taboos discouraging complaints of violence are broken down;

(e) Give appropriate weight to children's views in legal proceedings; provide support services to child witnesses in legal proceedings and services for physical and psychological recovery and social reintegration of the victims of rape, abuse, neglect, ill-treatment, violence or exploitation, in accordance with article 39 of the Convention; and take measures to prevent the criminalization and stigmatization of victims;

(f) Seek technical assistance from, among others, UNICEF.

Alternative care

41. Noting the State party's efforts, including a study on the traditional system of foster care for orphans (see, inter alia, paragraph 119 of the State party's report), the Committee remains concerned that the foster care system requires strengthening.

42. **The Committee recommends that the State party take action to improve the foster care system, including consideration of recommendations made by the study and in respect of the Convention's provisions.**

Adoption

43. Noting in particular the State party's very large emigrant population, the Committee is concerned at potential violations of children's rights in the context of intercountry adoption.

44. **The Committee recommends that the State party adopt and implement the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.**

6. Basic health and welfare

45. While noting the significant progress made, the Committee remains concerned at health problems among children such as the deaths of infants and children caused by diarrhoeal diseases, respiratory infections and malnutrition. The Committee is concerned, in particular, by the limited access to health services of children living in rural communities, and particularly on more remote islands, and the threat of HIV/AIDS.

46. **The Committee recommends that the State party:**

(a) Pursue and strengthen its efforts to improve access to health care, including primary health care, giving particular attention to major causes of infant and child mortality and to major illnesses and diseases;

(b) Give particular attention to children living in rural areas and on remote islands and to the prevention of the spread of HIV/AIDS.

Adequate standard of living

47. While noting the State party's efforts in this regard, the Committee remains concerned at the large proportion of children and their families living in poverty. The Committee is concerned, in particular, by weaknesses in the social security system, poor housing conditions, the lack of adequate sanitary facilities and the lack of easy access for many families and children to clean drinking water.

48. **The Committee urges the State party:**

(a) To ensure that its anti-poverty programme takes into consideration children's rights in the context of, inter alia, an adequate standard of living;

(b) To develop programmes of major improvements to the social security system, housing conditions of children, home sanitation facilities and access to clean drinking water.

Children with disabilities

49. The Committee is concerned that the rights of children with disabilities are not fully respected and that available specialized assistance, including economic assistance, is insufficient. The Committee is concerned, in addition, at the absence of public schools or trained teachers for children with disabilities in need of special facilities.

50. **The Committee recommends that the State party:**

(a) Make urgent efforts to improve respect for the rights of children with disabilities, including the rights to non-discrimination, family life, an adequate standard of living, health care, education and leisure;

(b) Continue to provide and encourage access to the regular education system for children with disabilities who are able to participate in this system;

(c) Ensure that, where necessary, specialized educational and health assistance are made available to children with disabilities in need of such assistance;

(d) Ensure the provision of specialized services for children with disabilities making a transition to the regular education system;

(e) Provide additional assistance to families caring for children with disabilities;

(f) Develop and implement information campaigns targeting, among others, parents, teachers, care givers and children, on the rights of children with disabilities, including the right to equal treatment;

(g) Seek technical assistance from UNICEF and WHO.

Adolescent health

51. The Committee is concerned that adolescents face numerous risks, including from life on the street, sexual exploitation, mistreatment, alcohol, tobacco and drug abuse and delinquency, and that there are no statistics available to indicate the number of adolescents exposed to these dangers. The Committee is concerned, in addition, at the high rates of teenage pregnancy, the incidence of sexually transmitted diseases, the potential spread of HIV/AIDS and the incidence of unsafe abortions occurring outside the health service structure.

52. **The Committee recommends that the State party:**

(a) Ensure that its child rights policy takes into consideration the risks faced by adolescents and that every effort is made to ensure that adolescents have access to appropriate health, including mental health, care and legal assistance;

(b) Give special attention to sexual exploitation, mistreatment, and alcohol, tobacco and substance abuse;

(c) Give special attention to teenage pregnancy, sexually transmitted diseases, HIV/AIDS and unsafe abortions, including through the provision of sex education for all adolescents;

(d) Ensure the provision of child-sensitive health assistance, education and counselling, in full respect of the child's right to privacy;

(e) Seek technical assistance from, among others, UNFPA and WHO.

7. Education, leisure and cultural activities

53. The Committee is concerned that the quality of education is low and, in particular, that there is a serious lack of resources and didactic material in schools, that the training of teachers remains insufficient and that the drop-out rate of children from secondary education is high. The Committee is concerned that access to pre-school education is very limited. While noting gender equality in admissions to primary education, the Committee is concerned that some adolescents are excluded from the system of compulsory education. The Committee is concerned, in addition, that not all children are fluent in both Creole and Portuguese and that these children risk being marginalized, given that school education is in Portuguese.

54. **Noting efforts to increase enrolment levels, particularly to primary school, the Committee recommends that the State party:**

(a) Make urgent efforts to improve the quality of education throughout the education system, including through reference to the Committee's general comment No. 1 on article 29 of the Convention on the aims of education;

(b) Strengthen the training of teachers and the provision of resources, including didactic materials;

(c) Improve access to pre-school education for all children, giving particular attention to children from disadvantaged backgrounds;

(d) Make efforts to increase the number of children completing secondary education;

(e) Ensure full access for all children to compulsory education;

(f) Take steps to ensure that all children are fluent in Creole and Portuguese;

(g) Seek technical assistance from UNICEF in this regard.

8. Special protection measures

Refugees

55. The Committee notes the relatively unimpeded access of refugees to the State party, but remains concerned that the State party has not yet ratified international instruments with regard to the protection of stateless persons.

56. **The Committee recommends that the State party:**

(a) Continue efforts to ensure full respect for the rights of refugee children;

(b) Ratify the 1954 Convention relating to the Status of Stateless Persons;

(c) Ratify the 1961 Convention on the Reduction of Statelessness.

Child labour

57. The Committee is concerned at practices of child labour, including the use of children to wash cars and sell goods on the streets.

58. **The Committee recommends that the State party:**

(a) Ensure implementation of international labour standards with regard to children;

(b) Consider raising the minimum age for work;

(c) Consider ratification of the 1973 ILO Convention No. 138 concerning Minimum Age for Admission to Employment and the 1999 ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Sexual exploitation and trafficking

59. The Committee is concerned at practices of sexual violence and exploitation of children, including child prostitution, primarily affecting girls but also including boys, such as on the island of Sal. The Committee is concerned that, with increasing tourism, sexual exploitation of children may increase and that there may be incidents of trafficking in children.

60. **The Committee recommends that the State party:**

(a) Conduct a study to assess the extent of the sexual exploitation and prostitution of and potential trafficking in children;

(b) Strengthen its efforts to address sexual violence and exploitation of children, including prostitution, inter alia through the judicial system, the media and through information campaigns, while also ensuring the protection of children's right to privacy and other relevant concerns;

(c) Take action to prevent the trafficking of children and to identify and implement solutions;

(d) Develop a National Plan of Action to address sexual exploitation, taking into account the recommendations formulated in the Agenda for Action adopted at the World Congress Against Commercial Exploitation of Children, held in Stockholm in 1996;

(e) Seek technical assistance from UNICEF.

Street children

61. The Committee is concerned at the presence of children living and/or working in the street, in particular in the urban centres of Mindelo, Praia and Sal and that these children are vulnerable to mistreatment, abuse and exploitation, including thieving on behalf of adults.

62. **The Committee recommends that the State party:**

(a) Implement measures to protect and assist children who are living and/or working in the street;

(b) Take steps to address the causes of this concern;

(c) Develop solutions to prevent children from living and/or working in the streets and provide assistance to children in leaving the street, including through family reunification programmes, educational assistance and appropriate rehabilitation;

(d) Seek technical assistance from UNICEF.

Substance abuse

63. Noting the work of the national committee combating drug abuse, the Committee is concerned at the incidence of substance abuse by children, particularly in the urban centres of Praia, Mindelo and Sal.

64. **The Committee recommends that the State party:**

(a) Reinforce the work of the National Committee;

(b) Strengthen its efforts to address the abuse of substances by children.

Juvenile justice

65. The Committee is concerned that, in practice, juvenile justice standards are not applied because of severe weaknesses in the functioning of the Commission for the Protection of Minors, the absence of appropriate institutions for the implementation of some juvenile justice measures, the insufficient capacity of courts and the backlog of cases, and an overall lack of financial and human resources. The Committee is concerned, inter alia, by the lack of alternative measures to detention for children over 16, the incarceration of children with adults, and the fact that detained children do not receive any formal education.

66. **The Committee recommends that the State party:**

(a) Proceed with its efforts to strengthen the system of juvenile justice in the spirit of the Convention, in particular articles 37, 40 and 39, and other United Nations standards in the field of juvenile justice, including the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System;

(b) Consider deprivation of liberty only as a measure of last resort, for all children up to the age of 18 and for the shortest possible period of time, limit by law the length of pre-trial detention, and ensure the availability of suitable alternatives to detention;

(c) Provide children with legal assistance at an early stage of proceedings;

(d) Protect the rights of children deprived of their liberty and improve their conditions of detention and imprisonment, including by solving the problem of overcrowded prisons and establishing special facilities for children with conditions suitable to their age and needs; and in the meantime, ensure that children are separated from adults in prison and in pre-trial detention facilities;

(e) Ensure that children up to the age of 18 in conflict with the law are not treated like, and do not receive the same sanctions as adults.

(f) Ensure that children are able to remain in regular contact with their families while in the juvenile justice system;

(g) Establish an independent child-sensitive and accessible system for complaints for children;

(h) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;

(i) Establish a programme of rehabilitation and reintegration of juveniles following justice proceedings;

(j) Request technical assistance in the area of juvenile justice and police training from, among others, OHCHR, the United Nations Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the United Nations Coordination Panel on Technical Advice and Assistance on Juvenile Justice.

9. Optional protocols and article 43 (2)

67. **The Committee recommends that the State party:**

(a) Consider ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol on the Involvement of Children in Armed Conflicts.

(b) Accept the amendment to article 43 (2) of the Convention.

10. Dissemination of documents

68. **Finally, in light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within all levels of administration of the State party and the general public, including concerned non-governmental organizations.**